

CHAPTER 23
IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

261—23.1(15) Purpose. The primary purpose of the community development block grant program is the development of viable communities by providing decent housing and suitable living environments and expanding economic opportunities, primarily for persons of low and moderate income.

261—23.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

“*Activity*” means one or more specific activities, projects or programs assisted with CDBG funds.

“*Average county wage*” means the average the department calculates annually using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa workforce development department, audit and analysis section. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

“*Average regional wage*” means the wage calculated annually by the department using a methodology in which each particular county is considered to be a geographic center of a larger economic region. The wage threshold for the central county is calculated using the average wage of that county, plus each adjoining county, so that the resulting figure reflects a regional average that is representative of the true labor market area. In performing the calculation, the greatest importance is given to the central county by weighting it by a factor of four, compared to weighting of one for each of the other adjoining counties. The central county is given the greatest importance in the calculation because most of the employees in that central county will come from that same county, as compared to commuters from other adjoining counties.

“*Bold possibilities*” means projects that meet one of the goals of IOWA 2010.

“*Career link*” means a program providing training and enhanced employment opportunities to the working poor and underemployed Iowans.

“*CDBG*” means community development block grant.

“*EDSA*” means economic development set-aside.

“*HUD*” means the U.S. Department of Housing and Urban Development.

“*IDED*” means the Iowa department of economic development.

“*IOWA 2010*” means the goals and objectives outlined in the report dated November 1, 2000, issued by the governor’s strategic planning council.

“*LMI*” means low and moderate income. Households earning 80 percent or less of the area median income are LMI households.

“*PFSA*” means public facilities set-aside.

“*Program income*” means gross income a recipient receives that is directly generated by the use of CDBG funds, including funds generated by the use of program income.

“*Program year*” means the annual period beginning January 1 and ending December 31.

“*Quality jobs program*” means a job training program formerly funded with CDBG funds that is no longer operational.

“*Recipient*” means a local government entity awarded CDBG funds under any CDBG program.

“*Working poor*” means an employed person with an annual household income between 25 and 50 percent of the area median family income.

261—23.3(15) Eligible applicants. All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under this program.

23.3(1) Any eligible applicant may apply directly or on behalf of a subrecipient.

23.3(2) Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

23.3(3) Applicants shall not apply on behalf of eligible applicants other than themselves.

261—23.4(15) Allocation of funds. IDED shall distribute CDBG funds as follows:

23.4(1) Administration. Two percent of total program funds including program income plus \$100,000 shall be used for state administration.

23.4(2) Technical assistance. One percent of the funds shall be used for the provision of substantive technical assistance to recipients.

23.4(3) Housing fund. Twenty-five percent of the funds shall be reserved for a housing fund to be used to improve the supply of affordable housing for LMI persons.

23.4(4) Job creation, retention and enhancement fund. Twenty percent of the funds shall be reserved for a job creation, retention and enhancement fund to be for workforce development and to expand economic opportunities and job training for LMI persons. Job creation, retention and enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA), and career link.

23.4(5) Contingency funds. IDED reserves the right to allocate up to 5 percent of funds for projects dedicated to addressing threats to public health and safety and for bold possibilities.

23.4(6) Competitive program. The remaining funds shall be available on a competitive basis through the water and sewer fund and community facilities and services fund. Of the remaining amount, 70 percent shall be reserved for the water and sewer fund, 15 percent shall be reserved for the community facilities and services fund and 15 percent shall be allocated to either the water and sewer fund or community facilities and services fund at the discretion of the director, based on requests for funds.

23.4(7) Reallocation. Any reserved funds not used for their specified purpose within the program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to community or business needs.

23.4(8) Recaptured funds. Recaptured funds shall be returned to the competitive program for use through the water and sewer fund and community facilities and services fund. As approved by the director, recaptured funds may be used to fund projects from the job creation, retention and enhancement fund or housing fund in order to respond to an immediate community or business need. Recaptured funds remaining at the end of a program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to a community or business need.

261—23.5(15) Common requirements for funding. Applications for funds under any of the CDBG programs shall meet the following minimum criteria:

23.5(1) Proposed activities shall be eligible, as authorized by Title I, Section 105 of the Housing and Community Development Act of 1974 and as further defined in 24 CFR 570, as revised April 1, 1997.

23.5(2) Proposed activities shall address at least one of the following three objectives:

1. Primarily benefit low- and moderate-income persons. To address this objective, 51 percent or more persons benefiting from a proposed activity must have incomes at or below 80 percent of the area median income.

2. Aid in the prevention or elimination of slums and blight. To address this objective, the application must document the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community and illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

3. Meet an urgent community development need. To address this objective, the applicant must certify that the proposed activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community and that are recent in origin or that recently became urgent; that the applicant is unable to finance the activity without CDBG assistance and that other sources of funding are not available. A condition shall be considered recent if it developed or became urgent within 18 months prior to submission of the application for CDBG funds.

23.5(3) Applicants shall demonstrate capacity for grant administration. Administrative capacity shall be evidenced by previous satisfactory grant administration, availability of qualified personnel or plans to contract for administrative services. Funds used for administration shall not exceed 10 percent of the CDBG award amount or 10 percent of the total contract amount, except for awards made under the career link program, for which funds used for administration shall not exceed 5 percent of the CDBG award amount.

23.5(4) Applicants who have received previous CDBG awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.

23.5(5) Applications shall demonstrate the feasibility of completing the proposed activities with the funds requested.

23.5(6) To the greatest extent feasible, applications shall propose the use of CDBG funds as gap financing. Applications shall identify and describe any other sources of funding for proposed activities.

23.5(7) Applications shall include a community development and housing needs assessment. In evaluating applications, IDED shall give supplementary credit to applicants that have developed comprehensive community and economic development plans.

23.5(8) Negotiation of awards. IDED reserves the right to negotiate award amounts, terms and conditions prior to making any award under any program.

23.5(9) Applicants shall certify their compliance with the following:

1. The Civil Rights Act of 1964 (PL 88-352) and Title VIII of the Civil Rights Act of 1968 (PL 90-284) and related civil rights, fair housing and equal opportunity statutes and orders;
2. Title I of the Housing and Community Development Act of 1974;
3. Age Discrimination Act of 1975;
4. Section 504 of the Housing and Urban Development Act of 1973;
5. Section 3 of the Housing and Urban Development Act of 1968;
6. Davis-Bacon Act (40 U.S.C. 276a-5) where applicable under Section 100 of the Housing and Community Development Act of 1974;
7. Lead-Based Paint Poisoning Prevention Act;
8. 24 CFR Part 58 and the National Environmental Policy Act of 1969;
9. Uniform Relocation Assistance and Real Property Acquisition Act of 1979, Titles II and III;
10. Americans with Disabilities Act;
11. Section 102 of the Department of Housing and Urban Development Reform Act of 1989;
12. Contract Work Hours and Safety Act;
13. Copeland Anti-Kickback Act;
14. Fair Labor Standards Act;
15. Hatch Act;
16. Prohibition on the Use of Excessive Force and Barring Entrance;
17. Drug-Free Workplace Act;
18. Governmentwide Restriction on Lobbying;
19. Single Audit Act;
20. State of Iowa Citizen Participation Plan; and
21. Other relevant regulations as noted in the CDBG management guide.

261—23.6(15) Requirements for the competitive program.**23.6(1) Restrictions on applicants.**

a. An applicant shall be allowed to submit one application per year under the water and sewer fund and one application per year under the community facilities and services fund.

b. An eligible applicant involved in a joint application (not as the lead applicant) shall be allowed to submit a separate, individual application only if the applicant is bound by a multijurisdictional agreement by state statute to provide a public service that is facilitated by the joint application and the activity proposed in the joint application is not located in the applicant's jurisdiction.

23.6(2) Grant ceilings. Maximum grant awards are as follows:

1. Applicants with populations of fewer than 1,000 shall apply for no more than \$300,000.
2. Applicants with populations of 1,000 to 2,499 shall apply for no more than \$500,000.
3. Applicants with populations of 2,500 to 14,999 shall apply for no more than \$600,000.
4. Applicants with populations of 15,000 to 49,999 shall apply for no more than \$800,000.

However, no recipient shall receive more than \$1,000 per capita based on the total population within the recipient's jurisdiction. If a county applies on behalf of one or more unincorporated communities within its jurisdiction, the \$1,000 per capita ceiling shall pertain to any project benefiting all residents of the unincorporated community or communities, not the entire unincorporated population of the county applying. Applicants shall use one of the following for population figures to determine the applicable grant ceilings: 2000 census figures, special census figures or adjusted figures based on annexation completed in accordance with statutory requirements in Iowa Code chapter 368. County populations shall be calculated for unincorporated areas only to determine applicable grant ceilings.

a. Joint applications for sewer and water projects shall be awarded no more than the cumulative joint total allowed according to the population of each jurisdiction participating in the project. For all other joint applications, an application shall be awarded no more than one and one-half times the maximum amount allowed for either of the joint applicants.

b. Applicants may apply for the maximum amount for which they are eligible under both the sewer and water fund and community facilities and services fund.

c. Applicants may apply for multiple activities under each fund for an amount up to the applicable ceilings.

23.6(3) Water and sewer fund application procedure. IDED shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by IDED.

a. Application forms shall be available upon request from IDED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, or on the division's Web site at www.community.state.ia.us.

b. Applications shall be submitted by the deadline established by IDED.

c. IDED shall review applications and make funding decisions based on the following criteria:

- (1) Magnitude of need for the project.
- (2) Impact of the activity on standard of living or quality of life of proposed beneficiaries.
- (3) Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion. Procurement of an engineer shall be considered evidence of readiness to proceed.

(4) Degree to which water and sewer fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity.

(5) Capacity to operate and maintain the proposed activity.

(6) Capacity for continued viability of the activity after CDBG assistance.

- (7) Scope of project benefit relative to the amount of CDBG funds invested.
- (8) Degree to which the project promotes orderly, compact development supported by affordable public infrastructure.
- d. Applicants shall submit preliminary engineering reports with their full applications for drinking water projects.
- e. Applicants shall submit facility plans with their full applications for wastewater projects.
- f. IDED staff may consult on proposed activities with other state agencies responsible for water- and sewer-related activities and may conduct site evaluations of proposed activities.
- g. Applicants selected to receive awards shall be notified by letter from the IDED director by date(s) determined by IDED.

23.6(4) *Community facilities and services fund application procedure.* Each year, IDED shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by IDED.

a. Application forms shall be available upon request from IDED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, or on the division's Web site at www.community.state.ia.us.

- b. Applications shall be submitted by the deadline established by IDED.
- c. IDED shall review applications and make funding decisions based on the following criteria:
 - (1) Magnitude of need for the project.
 - (2) Impact of the activity on standard of living or quality of life of proposed beneficiaries.
 - (3) Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion.
 - (4) Degree to which community facilities and services fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity.
 - (5) Capacity to operate and maintain the proposed activity.
 - (6) Capacity for continued viability of the activity after CDBG assistance.
 - (7) Scope of project benefit relative to the amount of CDBG funds invested.
 - (8) Degree to which the project promotes orderly, compact development supported by affordable public infrastructure.
- d. IDED staff may consult on proposed activities with other state agencies responsible for community facilities and services-related activities and may conduct site evaluations of proposed activities.
- e. Applicants selected to receive awards shall be notified by letter from the IDED director by date(s) determined by IDED.

23.6(5) *Contingent funding.* IDED may make awards contingent upon receipt of funding from other sources.

23.6(6) *Negotiation of awards.* IDED reserves the right to negotiate award amounts and terms.

261—23.7(15) Requirements for the economic development set-aside fund.**23.7(1) Restrictions on applicants.**

- a. Applicants shall apply only for direct loans or forgivable loans to make to private businesses for the creation of new jobs or the retention of existing jobs that would otherwise be lost.
- b. The maximum grant award for individual business assistance applications from any city or county is \$1,000,000.
- c. The average starting wage of jobs to be created or retained by a proposed project shall meet or exceed the lower of 100 percent of the average county wage or 100 percent of the average regional wage.
- d. At least 51 percent of the permanent jobs created or retained by the proposed project shall be taken by or made available through first consideration activities to persons from low- and moderate-income families.
- e. Projects must maintain a minimum ratio of one permanent job created or retained for every \$10,000 in CDBG funds awarded.
- f. Terms of conventional loans proposed for the project must be consistent with terms generally accepted by conventional financial institutions.
- g. Applications must provide evidence of adequate private equity.
- h. Applications must provide evidence that the EDSA funds requested are necessary to make the proposed project feasible and that the business requesting assistance can continue as a going concern in the foreseeable future if assistance is provided.
- i. IDED shall not consider applications proposing business relocation from within the state unless evidence exists of unusual circumstances that make the relocation necessary for the business' viability.
- j. No significant negative land use or environmental impacts shall occur as a result of the project.
- k. Transition provision. Applicants that have fully completed preapplications pending before the department prior to January 1, 2004, or fully completed preapplications that are postmarked or E-mailed to the department by the close of business on December 31, 2003, will be evaluated using the rules regarding wage thresholds in effect at the time of submittal.

23.7(2) Application procedure. Application forms and instructions shall be available upon request from IDED, Business Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4819. An original and two copies of completed applications with required attachments shall be submitted to the same address. IDED shall accept EDSA applications at any time and shall review applications on a continuous basis. IDED shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

23.7(3) Review criteria. IDED shall review applications and make funding decisions based on the following criteria:

1. Impact of the project on the community.
2. Appropriateness of the jobs to be created or retained by the proposed project.
3. Appropriateness of the proposed wage and benefit package available to employees in jobs created or retained by the proposed project.
4. Degree to which EDSA funding would be leveraged by private investment.
5. Degree of demonstrated business need.

In evaluating applications, IDED shall give supplementary credit to applicants who have executed a good neighbor agreement with the business to be assisted.

IDEED may conduct site evaluations of proposed projects.

261—23.8(15) Requirements for the public facilities set-aside fund. PFSA funds are reserved for infrastructure projects in direct support of economic development activities that shall create or retain jobs.

23.8(1) Restrictions on applicants.

- a. The maximum grant award for individual applications is \$500,000.
- b. At least 51 percent of the permanent jobs created or retained by the proposed project shall be taken by or made available through first consideration activities to persons from low- and moderate-income families.
- c. Projects must maintain a minimum ratio of one permanent job created or retained for every \$10,000 in CDBG funds awarded.
- d. The applicant local government must contribute at least 50 percent of the total amount of funds requested.
- e. Applications must provide evidence that the PFSA funds requested are necessary to make the proposed project feasible and that the business requesting assistance can continue as a going concern in the foreseeable future if assistance is provided.
- f. Jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered to be new jobs created.
- g. No significant negative land use or environmental impacts shall occur as a result of the project.
- h. Applications shall include a business assessment plan, projecting for each identified business the number of jobs to be created or retained as a result of the public improvement proposed for assistance.

23.8(2) Application procedure. Application forms and instructions shall be available upon request from IDED, Business Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4819. An original and one copy of completed applications with required attachments shall be submitted to the same address. IDED shall accept PFSA applications at any time and shall review applications on a continuous basis. IDED shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

23.8(3) Review criteria. IDED shall review applications and make funding decisions based on the following criteria:

1. Impact of the project on the community.
2. Number of jobs created or retained per funds requested.
3. Degree to which PFSA funding would be leveraged by private investment.
4. Degree of demonstrated need for the assistance.

IDED may conduct site evaluations of proposed projects.

261—23.9(15) Requirements for the career link program. Projects funded through the career link program assist the unemployed and underemployed to obtain the training and skills necessary to move into available higher-skill, higher-paying jobs.

23.9(1) Restrictions on applicants.

- a. Identified positions shall pay an average starting wage that meets or exceeds the lower of 100 percent of the average county wage or 100 percent of the average regional wage.
- b. Applications shall include evidence of business participation in the curriculum design and evidence that a number of positions are available equal to or greater than the number of persons to be trained.

- c. The project length shall not exceed 24 months.
- d. Applicants may use awarded funds for training, transportation and child care costs. Up to 5 percent of funds may be used for administration.
- e. Rescinded IAB 1/19/05, effective 2/23/05.

23.9(2) *Application procedure.* Application forms and instructions shall be available upon request from IDED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4783. An original and five copies of completed applications shall be submitted to the same address. IDED shall accept career link applications at any time and shall review applications on a continuous basis until all program funds are obligated or the program is discontinued.

23.9(3) *Review criteria.* IDED shall review applications and make funding decisions based on the following criteria:

- 1. Quality of the jobs available and business participation.
- 2. Merit of the proposed training plan.
- 3. Degree to which career link funds are leveraged by other funding sources.
- 4. Merit of the recruitment/job matching plan.
- 5. Scope of project benefit relative to the amount of funds invested.

261—23.10(15) *Requirements for the contingency fund.* The contingency fund is reserved for communities experiencing a threat to public health, safety or welfare that necessitates immediate corrective action sooner than can be accomplished through normal community development block grant procedures, or communities addressing bold possibilities. Up to 5 percent of CDBG funds may be used for this purpose.

23.10(1) *Application procedure.* Those local governments applying for contingency funds shall submit a written request to IDED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the situation, the project budget including the amount of the request from IDED, projected use of funds and an explanation of the reason that the situation cannot be remedied through normal CDBG funding procedures.

23.10(2) *Application review.* Upon receipt of a request for contingency funding, IDED shall determine whether the project is eligible for funding and notify the applicant of its determination. A project shall be considered eligible if it meets the following criteria:

- a. Projects to address a threat to health and safety.
 - (1) An immediate threat to health, safety or community welfare must exist that requires immediate action.
 - (2) The threat must be the result of unforeseeable and unavoidable circumstances or events.
 - (3) No known alternative project or action would be more feasible than the proposed project.
 - (4) Sufficient other local, state or federal funds either are not available or cannot be obtained in the time frame required.
- b. Projects to address bold possibilities.
 - (1) The project addresses one of the goals of IOWA 2010.
 - (2) The project provides a beneficial impact on the standard of living and quality of life of proposed beneficiaries.
 - (3) The project can be ready to proceed and be completed in a timely manner.
 - (4) The project leverages the maximum amount of local funds possible.
 - (5) The project will continue to remain viable after CDBG assistance.
 - (6) The project meets the funding standards established by the funding criteria set forth in this rule.
 - (7) The applicant provides adequate information to IDED on total project design and costs as requested.

23.10(3) Additional information. IDED reserves the right to request additional information on forms prescribed by IDED prior to making a final funding decision. IDED reserves the right to negotiate final project award and design components.

23.10(4) Future allocations. IDED reserves the right to reserve future funds anticipated from federal CDBG allocations to the contingency fund to offset current need for commitment of funds which may be met by amounts deferred from current awards.

261—23.11(15) Requirements for the housing fund program. Specific requirements for the housing fund are listed separately at 261—Chapter 25.

261—23.12(15) Interim financing program. The objective of the CDBG interim financing program is to benefit persons living in eligible Iowa communities by providing short-term financing for the implementation of projects that create or retain employment opportunities, prevent or eliminate blight or accomplish other federal and state community development objectives. Up to \$25 million shall be made available for grants under the CDBG interim financing program during any program year.

23.12(1) Eligible activities. Funds provided through the interim financing program shall be used for the following activities:

1. Short-term assistance, interim financing or construction financing for the construction or improvement of a public work.
2. Short-term assistance, interim financing or construction financing for the purchase, construction, rehabilitation or other improvement of land, buildings, facilities, machinery and equipment, fixtures and appurtenances or other projects undertaken by a for-profit organization or business or a non-profit organization.
3. Short-term or interim financing assistance for otherwise eligible projects or programs.

23.12(2) Restrictions on applicants.

- a. No significant negative land use or environmental impacts shall occur as a result of the project.
- b. Applications must provide evidence that the proposed project shall be completed within 30 months of the date of grant award.
- c. The amount of funds requested shall not exceed \$20 million.
- d. Applications must provide evidence of an irrevocable letter of credit or equivalent security instrument from an AA- or better-rated lending institution, assignable to IDED, in an amount equal to the CDBG short-term grant funds requested, plus interest, if applicable.
- e. Applications must provide evidence of the commitment of permanent financing for the project.
- f. Applications must include assurance that program income earned or received as a result of the project shall be returned to IDED on or before the end date of the grant contract.

23.12(3) Application procedure. Applications may be submitted at any time in a format prescribed by IDED. Applications shall be processed, reviewed and considered on a first-come, first-served basis to the extent funds are available. IDED shall make funding decisions within 30 days of a receipt of a completed application. Applications that are incomplete or require additional information, investigation or extended negotiation may lose funding priority.

23.12(4) Application review. Applications shall be reviewed and funding decisions made based on the following review criteria:

1. Degree to which CDBG funds would be leveraged by other funding sources.
2. Reasonableness of the project cost per beneficiary ratio.
3. Documented need for the CDBG assistance.

4. Degree of public benefit, as measured by the present value of proposed assistance to direct wages and aggregate payroll lost, indirect wages and aggregate payroll lost, dislocation and potential absorption of workers and the loss of economic activity.

261—23.13(15) Flood recovery fund. Rescinded IAB 9/18/02, effective 10/23/02.

261—23.14(15) Disaster recovery fund. The disaster recovery fund is reserved for communities impacted by natural disasters when a supplemental disaster appropriation is made under the community development block grant program. Funds are available to repair damage and to prevent future threat to public health, safety or welfare that is directly related to the disaster for which HUD supplemental funds have been allocated to the state.

23.14(1) Application procedure. Communities in need of disaster recovery funds shall submit a written request to IDED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the community's problem, the amount of funding requested, projected use of funds, the amount of local funds to be provided and the percent of low- and moderate-income persons benefiting from the project.

23.14(2) Application review. Upon receipt of a request, IDED, in consultation with appropriate federal, state and local agencies, shall make a determination of whether the community and project are eligible for funding and notify the applicant community of its determination. A project shall be considered eligible only if it meets all of the following criteria:

1. A threat must exist to health, safety or community welfare that requires immediate action.
2. The threat must be a result of a natural disaster receiving a presidential declaration for which IDED received a supplemental HUD appropriation.
3. No known alternative project or action would be more feasible than the proposed project.
4. Sufficient other local, state or federal funds (including the CDBG competitive program) either are not available or cannot be obtained in the time frame required.

23.14(3) *Compliance with federal and state regulation.* A community receiving funds under the disaster recovery fund shall comply with all laws, rules and regulations applicable to the CDBG competitive program, except those waived by HUD as a result of federal action in conjunction with the disaster recovery initiative and those not required by federal law that IDED may choose to waive. IDED shall make available a list of all applicable federal regulations and disaster-related waivers granted by Congress and relevant federal agencies to all applicants for assistance.

261—23.15(15) *Administration of a CDBG award.* This rule applies to all grant recipients awarded funds from any of the CDBG programs. Recipients shall comply with requirements and instructions set forth in the applicable CDBG management guide.

23.15(1) *Contracts.* After making an award notification to a recipient, IDED will issue a CDBG contract. The contract shall be between the recipient local government and IDED. These rules and applicable federal and state laws and regulations shall be part of the contract.

a. Recipients shall execute and return the contract to IDED within 45 days of the transmittal date from IDED. Failure to do so may be cause for termination of the award.

b. Certain activities require permits or clearances that shall be obtained from other state or federal agencies prior to proceeding with the project. IDED may include securing necessary permits or clearances as conditions to the CDBG contract.

23.15(2) *General financial management standards.* Recipients shall comply with 24 CFR 85, as revised April 1, 1997, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. Allowable costs shall be determined in accordance with OMB Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

23.15(3) *Requests for funds.* Recipients shall submit requests for funds in the manner described and on the forms provided in the CDBG management guide. Individual requests for funds shall be made in whole dollar amounts not less than \$500, except for the final request for funds.

23.15(4) *Program income.* If a recipient receives program income before the contract end date, it must be expended before requesting additional funds. If a recipient receives program income on or after the contract end date, the recipient may reuse the program income according to an IDED-approved reuse plan, or the recipient may return the program income to IDED. If a recipient receives less than \$25,000 of program income cumulative of all CDBG grants in a program year, it shall be considered miscellaneous revenue and may be used for any purpose.

23.15(5) *Record keeping and retention.* All records related to the project, including the original grant application, reports, financial records and documentation of compliance with state and federal requirements, shall be retained for five years after contract closeout. Representatives of HUD, the Inspector General, the General Accounting Office, the state auditor's office and IDED shall have access to all books, accounts, documents, records and other property belonging to or in use by recipients pertaining to the receipt of CDBG funds.

23.15(6) *Performance reports and reviews.* Recipients shall submit recipient performance reports to IDED as prescribed in the CDBG management guide. IDED shall perform project reviews and site inspections deemed necessary to ensure program compliance. When noncompliance is indicated, IDED may require remedial actions to be taken.

23.15(7) *Contract amendments.* Any substantive change to a funded CDBG project, including time extensions, budget revisions and significant alteration to proposed activities, shall be considered a contract amendment. The recipient shall request the amendment in writing. No amendment shall be valid until approved in writing by IDED. IDED shall not approve the addition of a new activity unrelated to the original contract activities, unless all original activities shall also be completed per the contract. In such cases, IDED may allow up to \$10,000 of the original CDBG award to be used for a new activity. For projects funded under the economic development set-aside, IDED shall not approve amendments involving the replacement of one activity with another.

23.15(8) *Contract closeout and audit.* Upon completion of project activities and contract expiration, IDED shall initiate closeout procedures. Contracts may be subject to audit before closeout of the contract can be completed. Recipients of federal funds of \$300,000 or more within one year must have these funds audited. The audit shall be performed in a manner consistent with the provisions set forth in the Single Audit Act, as revised in 1996, and described in the CDBG management guide.

23.15(9) *Contractors and subrecipients limitation.* CDBG funds shall not be used directly or indirectly to employ, award contracts to, otherwise engage the services of or fund any contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status by HUD under the provisions of 24 CFR 24, as revised April 1, 1997.

23.15(10) *Compliance with federal and state laws and regulations.* Recipients shall comply with all applicable provisions of the Housing and Community Development Act of 1974 and these administrative rules. Recipients shall also comply with any provisions of the Iowa Code governing activities performed under this program.

23.15(11) *Noncompliance.* At any time before project closeout, IDED may, for cause, find that a recipient is not in compliance with requirements under this program. At IDED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IDED. Findings of noncompliance may include the use of CDBG funds for activities not described in the application, failure to complete approved activities in a timely manner, failure to comply with any applicable state or federal rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

23.15(12) *Appeals process for findings of noncompliance.* Appeals shall be entertained in instances where it is alleged that IDED staff participated in a decision that was unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to IDED. Appeals shall be addressed to the division administrator of the community development division. Appeals shall be in writing and submitted to IDED within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The director shall make the final decision on all appeals.

These rules are intended to implement Iowa Code section 15.108(1) "a."

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